

REMARKS

Reconsideration and allowance in view of the following remarks are respectfully requested. Specifically, favorable consideration of pending Claims 2, 3, 5-21, 23, 24, and 26-37 is respectfully requested.

THE REJECTIONS UNDER 35 U.S.C. §103(a)

The following rejections have been made of the pending claims under 35 U.S.C. §103(a):

- I. Claims 2, 3, and 5 were rejected under 35 U.S.C. §103(a) as being unpatentable over Fowlow (U.S. Patent 6,260,078; hereafter "Fowlow"); and
- II. Claims 6-21, 23, 24, and 26-37 were rejected under 35 U.S.C. §103(a) as being unpatentable over Folow in view of King (U.S. Patent 6,681,263; hereafter "King").

The Applicant respectfully traverses both of rejections I and II, in large part due to the deficiency of the primary reference of Fowlow that is acknowledged in rejection I. Thus, the Applicant respectfully requests that both of the rejections listed above be reconsidered and withdrawn.

Specifically, it is acknowledged on page 3 of the Office Action that, with regard to independent Claim 3, "Fowlow does not explicitly teach the components are operating system components." The rejection attempts to compensate for such deficiency by further asserting that:

However, Fowlow (lines 16-24 column 3; lines 36-40 column 8) teaches dynamically loading applet execution code when they are needed by an application running (classes exist that may be desirable for loading into client application, lines 9-10 column 13) within an operating system (lines 36-40 column 8). Therefore one of ordinary skill in the art would conclude that the components of Fowlow are operating system components.

The Applicant respectfully submits that the argument asserted above, particularly that one of ordinary skill in the art would conclude that the components of Fowlow are operating system components, are unsubstantiated and fail to establish a *prima facie*

case of obviousness. The requirements for establishing a *prima facie* case of obviousness are set forth in MPEP §2143, which states, in part:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Even more specifically, the Applicant respectfully submits that the rejection fails to provide "some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference [Fowlow]" as required.

Fowlow describes acquiring Java-based applications within a distributed object system (Fowlow, col. 1, lines 9 and 10). As described by Fowlow, Java is a programming language that also includes an interpreter as a run-time environment (Fowlow, col. 1, lines 44 and 45). The Applicant submits that one of ordinary skill understands that run-time environments provide a layer of abstraction and services to an application running on a processing device, and further serve as at least one of an application programming and application execution platform.

As an application programming platform, a run-time environment compiles targeted applications, which may be written in one of multiple computing languages, into an intermediate language (hereafter "IL"). IL is typically independent of the platform and the central processing unit (hereafter "CPU") executes IL. In fact, IL is a higher level language than many CPU machine languages.

As an application execution platform, a run-time environment interprets the compiled IL into native machine instructions. A run-time environment may utilize either an interpreter or a compiler to execute such instructions. Regardless, the native machine instructions may then be directly executed by the CPU. As stated before, IL is CPU-independent and therefore IL can execute on any CPU platform as long as the operating

system running on that CPU platform hosts an appropriate runtime execution environment. That is, run-time environments run are hosted on top of operating systems. Thus, Fowlow may accurately describe, as noted in the rejection, "After information is marshaled, the transport mechanism then transports information through any combination of an operating system, a device driver, or a network, that are all part of hardware 70 used by the client side of a distributed object system," (Fowlow, col. 8, lines 36-40).

But for the rejection to even suggest that "the components of Fowlow are operating system components," the reference would have to demonstrate that a dynamically configurable operating system, which is recited in rejected independent Claims 3, 9 13, 18, and 24, does not compromise the performance integrity of the run-time environment. However, the reference is silent with regard to configuring the *host* of the run-time environment described therein. The Applicant respectfully submits that such teaching is missing from Fowlow. Thus, there is lacking a component of the test for establishing a *prima facie* case of obviousness, that is, any suggestion or motivation to modify the reference to support the assertion of obviousness.

Rejected independent Claims 3, 9 13, 18, and 24 all recite operating system components, and therefore may be distinguished over Fowlow for at least the reasons set forth above. Similarly, the rejected claims that depend from any of Claims 3, 9, 13, 18, and 24 are distinguishable over Fowlow. It is respectfully submitted that King does not compensate for the deficiencies of Fowlow described above, nor is any argument to that effect advanced in rejection II.

The Applicant disagrees with the attempted characterizations of many of the rejected claims and the accompanying generalized rejections that echo previously stated rationales. The aforementioned characterizations do not take into consideration the variations of features and scope of limitations for each of the individual claims. For surely if all of the characterizations were correct, a significant number of the pending claims would be repeats of one another. Thus, the Applicant respectfully requests that

such characterizations be withdrawn. For the record, the Applicant respectfully submits that, contrary to the characterizations provided in the rejections:

Claim 9 is not a method claim of Claims 3 and 5-7;

Claim 13 is not a computer system claim of Claims 3, 9, and 10;

Claim 14 is not a computer claim of Claims 7 and 11;

Claims 15-17 are not computer system claims of Claims 10-12;

Claim 18 is not a computer system claim of Claims 3 and 7;

Claims 19 and 20 are not computer system claims of Claim 3;

Claim 23 is not a computer system claim of Claim 2;

Claims 24 and 26-30 are not computer system claims of Claims 3, 5-8, and 10, respectively;

Claims 31 and 32 are not computer system claims of Claim 11;

Claim 33 is not a method claim of Claims 3, 7, and 9;

Claim 34 is not a method claim of Claim 10;

Claim 35 is not a method claim of Claims 3, 7, and 9; and

Claim 36 is not a method claim of Claim 10.

With regard to independent Claims 33 and 35, the rejection states that the claims are method claims of Claims 3, 7, and 9, and are therefore rejected under the same rationale as Claims 3, 7, and 9. However, the Applicant submits that the features of Claims 33 and 35, as well as their respective dependent claims, are different in limitation and scope than Claims 3, 7, and 9. Still, the rejection does not address the recited features of Claims 33 and 35. Accordingly, the Applicant respectfully submits that neither Fowlow nor King teach or even suggest the features of Claims 33 and 35.

For at least the reasons set forth above, it is respectfully submitted that rejected independent Claims 3, 9 13, 18, 24, 33, and 35 are clearly distinguishable over Fowlow and King, both singularly and combined. Consequently, it is further submitted that the respective dependent claims are similarly distinguishable over the cited references. Therefore, the Applicant requests that rejections I and II be reconsidered and withdrawn.

CONCLUSION

The remaining references of record have been considered. It is respectfully submitted that they do not compensate for the deficiencies of the references utilized in rejecting the pending claims.

All objections and rejections having been addressed, it is respectfully submitted that the present application is now in condition for allowance. Early and forthright issuance of a Notice of Allowability is respectfully requested.

Respectfully Submitted,

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